



## **ARIZONA BOARD OF FINGERPRINTING**

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### **Final Minutes for Public Meeting**

Held May 19, 2006, at 8:15 a.m.

2222 West Encanto Blvd., Suite 350, Phoenix, Arizona

#### **Board Members**

Mike LeHew, Department of Economic Security, Chair  
Kim Pipersburgh, Department of Health Services, Vice Chair  
Alvin Vasicek, Administrative Office of the Courts  
Rachell Tucker, Department of Education  
Arthur W. Baker, Department of Juvenile Corrections

#### **Executive Director**

Dennis Seavers

### **CALL TO ORDER AND ROLL CALL**

Mr. LeHew called the meeting to order at 8:45 a.m. and conducted a roll call. The following Board members were present: Mike LeHew, Kim Pipersburgh, Alvin Vasicek, Rachell Tucker, and Arthur W. Baker. There were no board members absent.

### **CALL TO THE PUBLIC**

Mr. LeHew made a call to the public. Michael Nickelsburg of the Office of the Auditor General introduced himself to the board members.

### **APPROVAL OF MINUTES**

Ms. Pipersburgh made a motion to approve the minutes of September 6, 2005; September 9, 2005; and December 16, 2005. Mr. Baker seconded the motion, which passed, 5-0.

## **EXECUTIVE DIRECTOR'S REPORT**

Mr. Seavers referred the Board members to data (attached) on the fiscal year ("FY") 2006 budget. He noted that the Board of Fingerprinting Fund balance, as of April 30, 2006, was \$485,113.93. Mr. Seavers also offered to provide board members with more detailed budget figures, if they wished.

Mr. Seavers referred the Board members to FY 2006 statistical data and performance measures (attached). Mr. Baker asked why the average number of days to dispose cases was so much better in the third quarter than in the first quarter. Mr. Seavers explained that the office adopted a policy in the first quarter of sending letters to individuals who had failed to provide complete application packages within a reasonable time frame. These letters announced that the applicant's files were closed, although the applicants could request that the files be reopened. Mr. Seavers explained that many cases that otherwise would be disposed of through an administrative hearing were closed by this method in the second and third quarters. Mr. LeHew asked whether the timeliness measurements reflected the length of time from the date of a hearing to final disposition. Mr. Seavers said that they did reflect this time period, although he had not provided data that covered just that time period.

Mr. Seavers explained that the Board would be going through a sunset review. He indicated that the auditors would be conducting business at the Board's office until approximately mid-September. He also explained that there would be a public hearing pertaining to the audit later in the year, and legislation to continue the Board would be introduced in the 2008 legislative session.

## **BOARD POLICY ON BIMONTHLY MEETINGS**

Mr. Seavers suggested that the Board adopt a policy of requiring the executive director to provide a written report to the Board members, whether or not the Board was scheduled to meet. This report, which would cover statistical, budget, and performance measure data, would be provided every other month. Mr. Baker suggested that a quarterly report would suffice. Mr. Vasicek made a motion to adopt a policy of requiring the executive director to provide quarterly reports on the aforementioned topics to the Board members. Mr. Vasicek clarified that the quarters would coincide with the quarters in the State's fiscal year. Ms. Pipersburgh seconded the motion, which passed, 5-0.

## **DRAFT RULES**

Without objection, Mr. LeHew tabled discussion of this topic until the next Board meeting.

## HEARING OFFICERS

Mr. LeHew suggested that the Board review its current manner of having hearing officers conduct administrative hearings. Mr. Seavers provided background information on the current statutes and the Board's policy of using a hearing officer. Mr. Seavers explained that the Board's current statutes regarding the conduct of hearings were created through legislation that intended, in part, to address the Board's backlog of hearings in 2002. That legislation was designed to have a hearing officer conduct hearings and make the final decision on whether a good cause exception should be granted. The board members would not conduct or make decisions on hearings. However, the Board's attorney indicated that, despite the legislation, it would be best for the Board to make the final decisions on hearings. If the Board decided to use a hearing officer, that hearing officer would provide recommended findings of fact and conclusions of law, which the Board could accept, reject, or modify. Given the Board's caseload at the time, the Board decided not to follow the attorney's advice and instead allowed hearing officers' decisions to be final. The Board used the resources—particularly the administrative law judges—of the Office of Administrative Hearings (“OAH”) to conduct hearings. Later, the Board began delegating most of the hearings to the executive director, using OAH only when the executive director's caseload became too burdensome or for cases in which the executive director had to become involved. The executive director, acting as hearing officer, would provide recommended findings of fact and conclusions of law, with which the Board would make a final determination on the good cause exception application. However, the cases referred to OAH would continue to be finalized by the administrative law judge, instead of OAH providing recommended findings of fact and conclusions of law.

Mr. Seavers indicated that the Board adopted certain procedures and policies relating to hearings at a time when the Board was facing a substantial backlog of cases. Since the backlog crisis had abated, the Board might want to revise these policies. In particular, the Board might want to eliminate the different treatment of cases, depending on whether they were referred to OAH or the executive director. Moreover, the Board may want to reduce the executive director's caseload to ensure more timely recommendations. Mr. Seavers suggested that the Board contract for the services of a hearing officer who would offer recommendations to the Board, just as the executive director currently does.

Mr. Baker made a motion that the executive director provide the Board by June with a specific plan for handling cases referred to hearings and delegating hearing officers. Ms. Tucker seconded the motion. The motion passed, 5-0.

## **ADJOURNMENT**

Ms. Pipersburgh made a motion to adjourn the meeting, and Ms. Tucker seconded. The motion passed, 5-0. Mr. LeHew adjourned the meeting at 9:21 a.m.

Minutes approved on August 10, 2006

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Dennis Seavers, Executive Director